

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: REVOLUTION WIND, LLC)	
APPLICATION TO CONSTRUCT A)	Docket No. SB-2021-01
MAJOR ENERGY FACILITY)	
)	
)	

**MOTION OF REVOLUTION WIND, LLC FOR PROTECTIVE TREATMENT OF
CONFIDENTIAL INFORMATION**

Revolution Wind, LLC (“Revolution Wind”) hereby requests that the Energy Facility Siting Board (the “Board”) grant protection from public disclosure to certain confidential, competitively sensitive, and proprietary information submitted by Revolution Wind in response to the Statewide Planning Program’s First Set of Data Requests No. 1-1 (“SPP 1-1”). Specifically, Revolution Wind seeks an order from the Board to protect certain confidential financial information contained in one table within Revolution Wind’s response to SPP 1-1. Revolution Wind requests protective treatment of this information, and seeks a determination that this information is not a public record, in accordance with R.I. Gen. Laws § 38-2-2(4)(B). Revolution Wind also hereby requests that, pending entry of that ruling, the Board preliminarily grant Revolution Wind’s request for confidential treatment.

I. BACKGROUND

On December 30, 2020, Revolution Wind filed its Application to Construct a Major Energy Facility with the Board. On April 26, 2021, the Board issued its Preliminary Decision and Order and directed the Statewide Planning Program to render an advisory opinion as to (1) the socio-economic impact of the proposed Facilities, including their construction and operation; (2) the proposed Facilities’ consistency and compliance with the State Guide Plan, including the State Energy Plan—Energy 2035; and (3) in coordination with the Rhode Island

Office of Energy Resources, a particular examination of the proposed Facilities' consistency and compliance with the State Energy Plan and whether the Facility will conform to the requirements and provisions of the Resilient Rhode Island Act and the Act on Climate.

Pursuant to this directive, on June 9, 2021, the Statewide Planning Program issued SPP 1-1 to Revolution Wind. SPP 1-1 requests information regarding the estimated local tax revenues that will accrue to the Town of North Kingstown and the State of Rhode Island as a result of Revolution Wind's proposed project. As part of its response, Revolution Wind has provided confidential tax information regarding the anticipated state income tax to be paid by Revolution Wind's joint venture partners, Orsted North America, Inc. and Eversource Investment, LLC. Neither Orsted North America, Inc. nor Eversource Investment, LLC is a party to this proceeding. This motion seeks confidential treatment and protection from public disclosure of these non-parties' confidential tax information.

II. LEGAL STANDARD

The Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.*, ("APRA") establishes the proper balance between "public access to public records" and protection "from disclosure [of] information about particular individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy." Gen. Laws § 38-2-1. Per APRA, "all records maintained or kept on file by any public body" are "public records" to which the public has a right of inspection unless a statutory exception applies. *Id.* § 38-2-3.

The definition of "public record" under APRA specifically excludes "trade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature." *Id.* § 38-2-2(4)(B). The statute provides that such records

“shall not be deemed public.” *Id.*

The Rhode Island Supreme Court has held that when documents fall within a specific APRA exemption, they “are not considered to be public records,” and “the act does not apply to them.” *Providence Journal Co. v. Kane*, 577 A.2d 661, 663 (R.I. 1990). Further, the court has held that “financial or commercial information” under APRA includes information “whose disclosure would be likely . . . to cause substantial harm to the competitive position of the person from whom the information was obtained.” *Providence Journal Co. v. Convention Ctr. Auth.*, 774 A.2d 40, 47 (R.I. 2001).

III. BASIS FOR CONFIDENTIALITY

By this Motion, Revolution Wind seeks confidential treatment for one table incorporated into its response to SPP 1-1. This table includes the estimated income tax payments that Revolution Wind’s joint venture partners will make over the life of the project. Revolution Wind seeks confidential treatment of this table because it contains the confidential tax information Orsted North America, Inc. and Eversource Investment, LLC, neither of which is a party to this proceeding. Further, due to the competitive nature of offshore wind, disclosing the expected income tax payments of Revolution Wind’s joint venture partners could provide confidential insight into its financial planning and anticipated profit margins. Revolution Wind would suffer harm to its competitive position in the market if the information in the confidential table within its response to SPP 1-1 were disclosed to the public or its competitors.

Revolution Wind treats the data and information in the table contained in its response to SPP 1-1 as confidential and commercially sensitive. Revolution Wind does not generally make it available to the public, other companies, or regulatory bodies in the absence of a protective order or confidentiality agreement. Disclosing this financial information publicly as part of the Board’s

Application review process would “constitute an unwarranted invasion of personal privacy” and “cause substantial harm” to Revolution Wind’s “competitive position.” *See* Gen. Laws § 38-2-1; *Convention Ctr. Auth.*, 774 A.2d at 47.

The state income tax table contained in Revolution Wind’s response to SPP 1-1 contains “commercial or financial information” to which the APRA public disclosure requirements do not apply. *See* Gen. Laws § 38-2-2(4)(B); *Kane*, 577 A.2d at 663. Revolution Wind has provided a narrowly redacted public version of its response to SPP 1-1 to balance the public’s interest in access to information with Revolution Wind’s privacy considerations. Revolution Wind therefore respectfully requests that the Board grant protective treatment to the confidential table contained in its response to SPP 1-1 and take the following actions to preserve its confidentiality: (1) maintain the unredacted version of Revolution Wind’s response to SPP 1-1 as confidential indefinitely; (2) not place any unredacted version of the response to SPP 1-1 on the public docket; and (3) disclose an unredacted version of Revolution Wind’s response to SPP 1-1 only to the Board, its attorneys, and staff as necessary to review Revolution Wind’s application.

WHEREFORE, Revolution Wind respectfully requests that the Board grant its Motion for Protective Treatment.

Date: June 24, 2021

Respectfully submitted,

Revolution Wind, LLC,
By its attorneys,



Robin L. Main (#4222)
Adam Ramos (#7591)
Christine Dieter (#9859)
Hinckley Allen & Snyder
100 Westminster Street, Suite 1500
Providence, RI 02903-2319
(401) 457-5278
(401) 277-9600 (fax)
rmain@hinckleyallen.com
aramos@hinckleyallen.com
cdieter@hinckleyallen.com

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2021, I sent a copy of the foregoing to the service list below by electronic mail.

/s/ Adam M. Ramos

SB-2021-01 Revolution Wind, LLC Application for Major Energy Facility
Updated June 23, 2013

Name/Address	E-mail
Chairman Ronald Gerwatowski (PUC)	Ronald.Gerwatowski@puc.ri.gov ;
Acting Director Terry Gray (DEM)	terry.gray@dem.ri.gov ;
Associate Director Meredith Brady (DOA)	Meredith.brady@doa.ri.gov ;
Emma Rodvien (PUC)	Emma.Rodvien@puc.ri.gov ;
Patricia Lucarelli (PUC)	Patricia.lucarelli@puc.ri.gov ;
Suzanne Amerault (DEM)	Suzanne.Amerault@dem.ri.gov ;
Maria Mignanelli (DOA)	maria.mignanelli@doa.ri.gov ;
Adam Ramos (Hinckley, Allen, & Snyder, LLP)	aramos@hinckleyallen.com ;
Robin Main (Hinckley, Allen, & Snyder, LLP)	rmain@hinckleyallen.com ;
Christine Dieter (Hinckley, Allen, & Snyder, LLP)	cdieter@hinckleyallen.com ;
Marvin Bellis (Eversource)	marvin.bellis@eversource.com ;
Charles R. Scott	chsco@orsted.com ;
Jeannette Alyward	jalyward@northkingstown.org ;
Town of North Kingstown Town Council	TownCouncil@northkingstown.org ;
Matt Callaghan	matt@callaghanlawri.com ;
George Watson (Robinson Cole)	Gwatson@rc.com ;
Mark Rielly (National Grid)	Mark.rielly@nationalgrid.com ;
Rachel Thomas (National Grid)	Rachel.Thomas@nationalgrid.com ;
Commissioner Nicholas Ucci (OER)	Nicholas.Ucci@energy.ri.gov ;
Christopher Kearns (OER)	Christopher.Kearns@energy.ri.gov ;
Carrie Gill (OER)	Carrie.Gill@energy.ri.gov ;
Becca Trietch (OER)	Becca.Trietch@energy.ri.gov ;
Todd Bianco (PUC)	Todd.Bianco@puc.ri.gov ;
Cindy Wilson-Frias (PUC)	Cynthia.Wilsonfrias@puc.ri.gov ;
Alan Nault (PUC)	Alan.nault@puc.ri.gov ;
Luly Massaro (PUC)	Luly.Massaro@puc.ri.gov ;

Christy Hetherington (DPUC)	Christy.hetherington@dpuc.ri.gov ;
John Bell (DPUC)	John.bell@dpuc.ri.gov ;
Thomas Kogut (DPUC)	thomas.kogut@dpuc.ri.gov ;
Maggie Hogan (DPUC)	Margaret.l.hogan@dpuc.ri.gov ;
Matthew Ouellette (DOT)	Matthew.Ouellette@dot.ri.gov ;
Robert Rocchio (DOT)	Robert.Rocchio@dot.ri.gov ;
Joseph Bucci (DOT)	Joseph.Bucci@dot.ri.gov ;
Jill Nascimento (DOT)	Jill.Nascimento@dot.ri.gov ;
John Paul Loether (HPHC)	johnpaul.loether@preservation.ri.gov ;
Charlotte Taylor (HPHC)	Charlotte.Taylor@preservation.ri.gov ;
Nicole Lafontaine (North Kingstown Planning Board)	NLaFontaine@northkingstown.org ;
Roberta Groch (DOA)	Roberta.Groch@doa.ri.gov ;
Kevin Nelson (DOA)	Kevin.Nelson@doa.ri.gov ;
Jennifer Sternick (DOA)	Jennifer.Sternick@doa.ri.gov ;
Nancy Lavin (Providence Business News)	Lavin@pbn.com ;
Christian Capizzo (Partridge Snow & Hahn LLP)	ccapizzo@psh.com ;
Peter Shattuck (Anbaric)	pshattuck@anbaric.com
Nicole DiPaolo (National Wildlife Foundation)	DiPaoloN@nwf.org ;